

Attorney Docket No. 5723-200255
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Frederick L. Bixler Confirmation No. 5482
Serial No.: 10/752,074 Examiner: Hylton, Robin Annette
Filed: January 5, 2004 Art Unit: 3781
For: Tamper Indicating Closure With Foldable Tab

RESPONSE TO 10 SEPTEMBER 2007 FINAL OFFICE ACTION

Mail Stop AF
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Barnes & Thornburg Customer No:
23643
U.S. Patent and Trademark Office

Sir:

This is in response to the 10 September 2007 office action.

Claim 22 remains cancelled without prejudice or disclaimer of the subject matter therein.

Claims 1-21 and 23-26 stands rejected under 35 U.S.C. 103 as unpatentable over Krueger (U.S. Patent No. 6,371,317) in view of Couput (U.S. Patent No. 4,546,892). Reconsideration and withdrawal of this rejection is requested on the basis that the '317 patent is not prior art to the present application. The present application includes a paragraph at the beginning of the specification claiming benefit of the '317 patent. Benefit was previously refused on the ground that the present application does not have an inventor in common with the '317 patent. Attached is a copy of the 14 November 2007 Decision of Paul Shanoski, Senior Attorney, Office of Petitions, U.S. Patent and Trademark Office which grants applicants' petition adding David F. Krueger (the inventor in the '317 Krueger patent) as an inventor in the present application. The present application papers are in compliance with the requirements of 35 U.S.C. 120 re benefit of the filing date of the '317 patent and the '317 patent is not prior art to the present application.

For the above reasons, withdrawal of this rejection is, respectfully, requested.

In view of the above, it is submitted that the claims (Nos. 1-21 and 23-26) are in condition for allowance and such action is, respectfully, requested.

If there is any issue remaining to be resolved, the examiner is invited to telephone the undersigned so that resolution can be promptly effected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 (5723-200255).

Respectfully submitted,

BARNES & THORNBURG LLP



Richard B. Lazarus
Reg. No. 48,215
Tel. No. (202) 371-6348